

Message

From: Hicks, Matt [Hicks.Matthew@epa.gov]
Sent: 6/3/2020 6:29:01 PM
To: Armor, Suzanne [Armor.Suzanne@epa.gov]; Jaikaran, Bianca [Jaikaran.Bianca@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]
CC: Nagrani, Kavita [Nagrani.Kavita@epa.gov]
Subject: FW: Quick Tribal Lands definition question
Attachments: Draft_404_Handbook_02_11_20_CLEAN.docx

Suzanne, Bianca, and Mita,

Stephanie Grey with FDEP just had a call with Simma Kupchan at OGC about a definition for "Tribal Lands or Tribal Waters" that the Seminole Tribe wants to add to FL's 404 assumption rulemaking (404 Applicant's Handbook). FDEP is about to issue a notice of change for their rulemaking and wants to know whether EPA has any issues with this definition by tomorrow. Simma has reached out to the EPA FL assumption team (minus Mita) for their thoughts and has included her OGC colleague Tod Siegal for his input as well. Please let us know your thoughts asap. I've attached the current version of the 404 Applicant's Handbook for context.

Thanks,

Matt

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Wednesday, June 3, 2020 2:04 PM
To: Siegal, Tod <Siegal.Tod@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>
Subject: Quick Tribal Lands definition question

All,

Stephanie Gray with FDEP just called and said they had just received the request below from the Seminole Tribe. They said they would be happy to incorporate it into their rule if it's ok with EPA, but defer to us. They would like to know whether they can incorporate it by Thursday evening, if possible, when they have to submit their draft rule. Is it possible for us to say by tomorrow whether this definition is:

1. acceptable for FL to use
2. not acceptable, or
3. acceptable with edits or warrants discussion?

Tod, I am forwarding to you in particular, as I assume if it's ok with Tod, most of the rest of us will be ok with it?

Thanks so much for your attention.

Thank you for the update and thank you again for allowing the Seminole Tribe an opportunity to review and provide comments on the draft Biological Assessment. Michelle and I have had a chance to confer with the Seminole Tribe's other council on the materials you provided us regarding a proposed definition of "Tribal lands or Tribal waters" as used in **Proposed Rule 62-331, F.A.C. and the 404 Applicant's Handbook**.

The Seminole Tribe would recommend utilization of the following definition for “Tribal lands or Tribal waters”:

“Tribal lands or Tribal waters” shall mean all such lands and waters that are: 1) within the exterior boundaries of a federal Indian reservation, regardless of title status; 2) within Florida and considered Indian Country under 18 U.S.C. Section 1151, no matter where located; and 3) all lands/waters owned by a Tribe^[1], the health and safety of which are impacted by the lands and waters regulated by the Florida Department of Environmental Protection under the State 404 Program.

We are happy to make ourselves available to discuss the proposed definition and any questions you may have on the Seminole Tribe’s comment letter submitted May 28th on the draft Biological Assessment.

Regards,

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^[1] “Tribe” is defined within the 404 Rules to mean “any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation.”